

# **EIGHTH ANNUAL STATEWIDE ETHICS SYMPOSIUM**

**PRACTISING LAW INSTITUTE—SAN FRANCISCO**

## ***The Attorney-Client Relationship: A New Paradigm?***

**Presented by the State Bar of California  
Committee on Professional Responsibility and Conduct**



**Saturday, April 24, 2004  
9:30 am to 4:45 pm**

**Practising Law Institute  
Conference Center  
685 Market Street  
San Francisco, CA  
(415) 498-2821**

**5 Hours of MCLE Credit in Ethics**

# EIGHTH ANNUAL STATEWIDE ETHICS SYMPOSIUM

## *The Attorney-Client Relationship: A New Paradigm?*

**8:30 – 9:30 am                      REGISTRATION**

**9:30 – 9:45 am**

### **WELCOMING REMARKS**

**Sean SeLegue:** Chair, Committee on Professional Responsibility and Conduct

**Dominique Snyder:** Vice-Chair, Committee on Professional Responsibility and Conduct

**Anthony Capozzi:** President, State Bar Board of Governors

**9:45 – 10:15 am**

### **KEYNOTE ADDRESS**

**Hon. Candace D. Cooper:** Presiding Justice, California Court of Appeals, 2<sup>nd</sup> District

**10:15 – 10:45 am**

### **SETTING THE STAGE: A BRIEF HISTORY OF THE ATTORNEY-CLIENT RELATIONSHIP**

This presentation will survey the evolution of the attorney-client relationship from the Roman empire to American case law. The presenters will explore the nuances of this unique relationship that, although created by contract and bearing marks of agency, has traditionally been distinguished by tensions between the client's autonomy and the lawyer's expertise and judgment, as well as a balancing of the lawyer's duties to his or her client versus the court and third parties. The presentation will also consider the extent to which the constitutional guarantees of the Fifth and Sixth Amendments undergird the current conception of the attorney-client relationship.

*Presented by the Bar Association of San Francisco Ethics Committee*

**Jerome Sapiro, Jr.:** Member, State Bar's Commission for the Revision of the Rules of Professional Conduct

**Mark Tuft:** Co-Vice-Chair, State Bar's Commission for the Revision of the Rules of Professional Conduct & AB 1101 Advisory Task Force

**10:45 – 11:00 am                      BREAK**

**11:00 – 12:00 noon**

### **SARBANES-OXLEY IN THE REAL WORLD: PRACTICAL APPROACHES FOR CALIFORNIA LAWYERS**

Do the new Sarbanes-Oxley Act rules, which permit corporate lawyers to disclose client information about alleged wrongdoing without consent, conflict with California confidentiality law, placing California lawyers at risk? Are California lawyers insulated from liability and discipline if they comply with the federal law? A panel of corporate and government lawyers will discuss the seeming clash between the SEC rules and California law, the arguments for and against federal preemption, and practical approaches for California lawyers impacted by the SEC rules.

**John Amberg:** Moderator; Member, Committee on Professional Responsibility and Conduct

**Keith Bishop:** Member, State Bar Business Law Section—Corporations Committee

**Marc Fagel:** Assistant District Administrator, Securities & Exchange Commission, San Francisco District Office

**Peter Mixon:** General Counsel, CALPERS

**Marshall Small:** General Counsel, Morrison & Foerster

**12:00 – 1:00 pm**

**NEW DUTIES ON THE HORIZON? A DISCUSSION WITH THE COMMISSION FOR THE REVISION OF THE RULES OF PROFESSIONAL CONDUCT**

Should lawyers have a duty, enforceable by State Bar discipline, to keep accurate billing records? A duty to advise clients of the availability of alternative dispute resolution mechanisms? Should acts of “moral turpitude” still provide a basis for discipline? These are some of the issues with which the Rules Revision Commission has been confronted during recent meetings. A panel of Commission members will present the pros and cons of these and other issues and engage the audience in what promises to be a lively debate.

**Dominique Snyder:** Moderator; Vice Chair, Committee on Professional Responsibility and Conduct

**Harry Sondheim:** Chair, State Bar’s Commission for the Revision of the Rules of Professional Conduct

**Paul Vapnek:** Co-Vice-Chair, State Bar’s Commission for the Revision of the Rules of Professional Conduct

**Hon. Ignazio Ruvolo:** Member, State Bar’s Commission for the Revision of the Rules of Professional Conduct

**Anthony Voogd:** Member, State Bar’s Commission for the Revision of the Rules of Professional Conduct

**1:00 – 2:00 pm     LUNCH** (Included)

**2:00 – 3:15 pm**

**AB 1101’S NEW DEATH OR SERIOUS BODILY INJURY EXCEPTION TO CONFIDENTIALITY: HAS TARASOFF COME TO THE LEGAL PROFESSION?**

AB 1101, which created an exception to Business and Professions Code section 6068(e)’s duty of confidentiality for life-threatening criminal acts takes effect July 1, 2004. A panel of confidentiality experts, including members of the AB 1101 Advisory Task Force that is currently drafting a rule of professional conduct to parallel the statutory exception, will discuss the ethical implications of this first express exception to California’s 130 year-old confidentiality statute. The panel will also suggest ways to grapple with the ethical dilemmas inherent in situations within the new exception to confidentiality, including guidance about when and how lawyers should make disclosures under the new authority AB 1101 will grant to them.

**Taylor Carey:** Moderator; Member, Committee on Professional Responsibility; Member, AB 1101 Advisory Task Force

**Mark Tuft:** Co-Vice-Chair, State Bar’s Commission for the Revision of the Rules of Professional Conduct; Member, AB 1101 Advisory Task Force

**Prof. Gerald Uelman:** Santa Clara University School of Law

**Richard Zitrin:** Zitrin & Mastromonaco; Member, AB 1101 Advisory Task Force

**3:15 – 3:30 pm     BREAK**

**3:30 – 4:45 pm**

**U.S. DEPARTMENT OF JUSTICE POLICIES ON EAVESDROPPING, CHARGING DECISIONS AND WAIVER OF ATTORNEY-CLIENT PRIVILEGE: IMPAIRMENT OR NECESSARY REDEFINITION OF THE ATTORNEY-CLIENT RELATIONSHIP?**

Do present threats to national security justify monitoring attorney-client communications? Are current guidelines sufficient to limit monitoring to appropriate cases? Is it possible to allow monitoring while preserving attorney-client privilege? Does the Justice Department policy on prosecution of business organizations coerce waivers of the attorney-client privilege? A panel of prosecutors and defense attorneys will discuss these and other questions relating to the effect of current policy on the attorney client relationship.

**Prof. Rory Little:** Moderator; University of California, Hastings College of the Law

**James Brosnahan:** Morrison & Foerster

**Mary McMamara:** Swanson & McNamara

**Patrick Robbins:** Assistant US Attorney

*We gratefully acknowledge the Practising Law Institute for the contribution of their facility for this event*

*We are honored to have Justice Cooper present the keynote address.*

## **REGISTRATION FORM**

State Bar of California Committee on  
Professional Responsibility and Conduct

### **EIGHTH ANNUAL STATEWIDE ETHICS SYMPOSIUM**

Practising Law Institute, Conference Center  
685 Market Street, Monadnock Bldg. 1<sup>st</sup> Floor  
San Francisco, CA 94105

**Saturday, April 24, 2004**

Note: One registrant per form. Photocopies may be used.

Name: \_\_\_\_\_

Bar Number: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Registration fees must be received by April 14, 2004.**

☐ \$75 Program Package includes: 5 hours of MCLE credit, resource book, and lunch

☐ Student Fee: \$35 Program Package includes: resource book and lunch

☐ Free of charge: No MCLE credit, resource book or lunch

Amount Enclosed/To Be Charged \$ \_\_\_\_\_

Credit Card Information (VISA/MASTERCARD ONLY)

*I authorize the State Bar of California to charge my program registration to my Visa/MasterCard account.  
(No other credit card will be accepted.)*

Account Number \_\_\_\_\_ Exp. Date \_\_\_\_\_

Cardholder's Name \_\_\_\_\_

Cardholder's Signature \_\_\_\_\_

## **REGISTRATION AND TRAVEL INFORMATION**

### **MCLE CREDIT**

This program offers up to 5 hours of MCLE credit in legal ethics. The State Bar of California and the Committee on Professional Responsibility and Conduct are approved State Bar of California MCLE providers.

### **DEADLINE**

In order to pre-register, your form and check, payable to the State Bar of California, or credit card information **MUST BE RECEIVED BY APRIL 14, 2004.**

### **MAIL TO**

Program Registrations, State Bar of California, 180 Howard St., San Francisco, CA 94105

OR

### **FAX TO**

Program Registrations at 415.538.2368. In order to fax your registration, credit card information is **MANDATORY.**

### **CANCELLATIONS/REFUNDS**

Cancellations and request for refunds must be received in writing by April 14, 2004. Following that date, your registration is transferable to another individual with notice to the registration department prior to the date of the program.

**ON-SITE REGISTRATION** is limited and subject to availability. Please register in advance.

### **SPECIAL ASSISTANCE**

Please call 415.538.2167 or TDD for speech and hearing impaired 415.538.2231. Do not fax request.

### **GROUND TRANSPORTATION**

Super Shuttle services the San Francisco International Airport; the cost is approximately \$20 each way. Please call 800-410-4444 ([www.supershuttle.com](http://www.supershuttle.com)). Bay Porter services the Oakland International Airport; the cost is approximately \$23 each way. Please call 877-467-1800 ([www.bayporter.com](http://www.bayporter.com)).

### **PUBLIC TRANSPORTATION**

#### **BART 415-817-1717**

The Bay Area Rapid Transit system links San Francisco with the East Bay (Oakland International Airport), Daly City, Colma, Millbrae and S.F. International Airport to the south. Tickets are sold at machines at BART stations. The Montgomery St. station is one-half block from PLI. Trains operate Saturday and Sunday 6:00 a.m. to midnight ([www.bart.gov](http://www.bart.gov)).

#### **GOLDEN GATE TRANSIT 415-923-2000**

Transbay Terminal, First and Mission St. (about a 5 block walk to PLI.) This bus service links San Francisco to Marin and Sonoma counties via the Golden Gate Bridge. Buses depart every 30-60 minutes from outside the Transbay Terminal. ([www.goldengate.org](http://www.goldengate.org))

### **PARKING**

Following are the names of parking garages; however, please call to confirm information:

Hearst Parking Center: 415-989-4000. From Third Street turn right on Stevenson (just before Market Street). Parking garage is at the end of the block at Annie Street. Open from 6:30 am until midnight. Closed Sunday and Holidays. All-day parking is \$19.00 (24 hours) – no in/out privileges.

Fifth and Mission St. Garage: 415-982-8522. Garage on Mission Street between Fourth and Fifth, with the entrance on Mission Street. All-day parking is \$20.00 (24 hours).